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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 UNITED STATES OF AMERICA,)
14 Plaintiff,)
15 v.)
16 GONZALO MAYORGA,)
17 Defendant.)
18

No. 3-05-70991 EDL

~~PROPOSED~~ ORDER AND STIPULATION
WAIVING TIME UNDER RULE 5.1 AND
EXCLUDING TIME FROM FEBRUARY 23,
2006 TO APRIL 26, 2006 FROM THE
SPEEDY TRIAL ACT CALCULATION
(18 U.S.C. § 3161(h)(8)(A))

19 The parties appeared before the Court on February 23, 2006 and April 5, 2006. With the
20 agreement of the parties, and with the consent of the defendant, the Court enters this order (1)
21 scheduling a new preliminary hearing/arraignment date of April 26, 2006 at 9:30 a.m., before the
22 Honorable James Larson; (2) documenting the defendant's waiver of time limits under Federal
23 Rule of Criminal Procedure 5.1; and (3) documenting the exclusion of time under the Speedy
24 Trial Act, 18 U.S.C. § 3161(h)(8)(A), from February 23, 2006 to April 26, 2006. The parties
25 agreed, and the Court found and held, as follows:

26 1. The defendant waived the time limits for a preliminary hearing under Federal Rule of
27 Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny the
28 defense reasonable time necessary for effective preparation, taking into account the exercise of

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1 due diligence, and would deny the defendant continuity of counsel.

2 2. Counsel for the defense believes that postponing the preliminary hearing is in his
3 client's best interest, and that it is not in his client's interest for the United States to indict the
4 case before the currently scheduled preliminary hearing/arraignment date. The parties expect to
5 discuss the possibility of a pre-indictment disposition of the case.

6 3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to
7 grant the requested continuance would unreasonably deny both government and defense counsel
8 reasonable time necessary for effective preparation, taking into account the exercise of due
9 diligence and the need for both sides to investigate the facts of the case, and would deny the
10 defendant and the government continuity of counsel.

11 4. Given these circumstances, the Court found that the ends of justice served by
12 excluding the period from February 23, 2006 to April 26, 2006, outweigh the best interest of the
13 public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

14 5. Accordingly, and with the consent of the defendant, the Court ordered that the period
15 from February 23, 2006 to April 26, 2006 be excluded from Speedy Trial Act calculations under
16 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

17 4. The Court scheduled a new status date of April 26, 2006, at 9:30 a.m., before the
18 Honorable James Larson, ~~and a new preliminary hearing/arraignment date of February 23, 2006~~
19 ~~at 9:30 a.m. before the Honorable Maria Elena James.~~

20 IT IS SO STIPULATED.

21 DATED: _____

22 /s/
23 TRACIE L. BROWN
24 Assistant United States Attorney

25 DATED: _____

26 /s/
27 STEVEN KALAR
28 Attorney for GONZALO MAYORGA

29 **IT IS SO ORDERED.**

30 DATED: April 10, 2006

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